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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,455	11/26/2003	Cornelis Johannes Maria Van Der Meer	2002-1027	8106

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EXAMINER

CHARLES, MARCUS

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/721,455	<b>Applicant(s)</b> VAN DER MEER ET AL.	
	<b>Examiner</b> Marcus Charles	<b>Art Unit</b> 3682	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>06-30-2004</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is the first action relating to serial application number 10/721,455 filed 11/16/2006.

Claims 1-7 are currently pending.

#### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Drawings***

2. The drawings are objected to because figure includes two different figures. It is not proper for two different drawings to include only one drawing legend. It is suggest inserting a drawing legend for each drawing. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of

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any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

In addition the drawing fails to show the three views in figure one as described in the specification (page 4, line 11.

### ***Specification***

3. The disclosure is objected to because of the following informalities: the specification includes references to claim numerals and legal phrase "said". It is not proper to include references to claims, claim numerals and legal phrases in the specification.

In addition, the following sub-titles are missing from the specification:

#### **Arrangement of the Specification**

(A) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(B) BRIEF SUMMARY OF THE INVENTION.

(C) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(D) DETAILED DESCRIPTION OF THE INVENTION.

Note: it appears that applicant intended to provide an amended specification with the application. However, the examiner did not find a copy of this amendment. It is suggest resubmitting a copy of the amended specification with the appropriate changes in the next office action.

In addition, in page 4, line 11, the specification indicated that three view of the known belt are shown. However only two views of the belt are shown.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, lines 1, 2 and 34; claim 6, line 5, claim 7, line 1, the phrases "preferably "such as" and "in particular" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

In addition, the claim language of claim 6, is confusing because it is not clear as to what "radial innermost" is being referred to, and it is not clear which orientation is being claimed.

Claim 7, is replete with double inclusions. Examples are, "an enclosed element 2), "metal transverse element 1) etc. It appears the claim was intended to be an independent claim before being dependent on claim 1.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a

question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1 recites the broad recitation one third, and the claim also recites preferably one fifth which is the narrower statement of the range/limitation.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-7 as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Takashima (4,655,732) Takashima. discloses the claimed invention including the transverse element (4) including a body part (see 4d), a head part (see 4c), and a neck part (not labeled) between the head and body parts; two axial openings (5/6) on each side of the neck part between the head part the body part, the openings also accommodate tensioning elements (8/9) therein; each of the body parts and the head part are extended such that each extension includes diverging contact surfaces (see fig. 13, 83/83) for contacting the engaging surface of a pulley; it is apparent that each of the body part and the head part includes radially upper and lower limits ( col.

4.lines 40-45) in the openings (5/6); it also apparent the an imaginary line exist between the extending portion of the head and that of the body, the imaginary line extends between the pulley contacting surface of the body to the pulley contacting surface of the head part; it is also apparent the tilting axis is in the body of the element since the contacting surface of the body must be in constant contact with the pulley contacting surface. In addition, it is also apparent that the radial dimension of the contact surface of the head part is between one third to one fifth of the radial dimension of the contact surface of the body part.

In claims 2-3, it is apparent that the contact surfaces of the head part lie substantially in line with the contact surface of the body part and also lie between two imaginary lines (see attached drawing).

In claim 6 as understood, Takashima clearly discloses the bottom edge is oriented in the axial dimension of the element.

In claim 7, Takashima discloses the claimed invention above.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takashima in view of Van Liempd et al. (6,857,980). Takashima does not disclose the neck part diverges radially outwards in the axial direction. Van Liempd et al. discloses

an element comprising a neck part (30), which diverges radially outwards in the axial direction in order to reduce weight (col. 2, lines 27-54). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the neck portion of Van Liempd et al. so that it is tapered or diverges in view of Van Liempd et al. in order to reduce weight.

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takashima in view of Sattler (6,599,211). Takashima fails to disclose the radially outer edge of the head part is provided with a centrally position indentation. Sattler discloses an element (2), (figs. 3-4) with the head part 20) having a centrally position indentation. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the radially outer edge of the head of Takashima device with a central indentation in view of Sattler in order to reduce the weight of the device.

### ***Conclusion***


11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. JP (62-137445, (2002-168306), (04-83941), (63-280946); Serkh et al (6,500,086, Takagi et al. (6,679,798), Nanaka et al. (6,283,882) and Yuan (6,634,975) disclose a belt comprising elements having belt engaging side surfaces.



12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (571) 272-7101. The examiner can normally be reached on Monday-Thursday 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ridley Richard can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Marcus Charles  
Primary Examiner  
Art Unit 3682  
July 09, 2006